

CHAPTER 52  
FILING RETURNS, PAYMENT OF TAX AND  
PENALTY AND INTEREST

[Prior to 12/17/86, Revenue Department[730]]

**701—52.1(422) Who must file.** Every corporation, organized under the laws of Iowa or qualified to do business within this state or doing business within Iowa, regardless of net income, shall file a true and accurate return of its income or loss for the taxable period. The return shall be signed by the president or other duly authorized officer. If the corporation was inactive or not doing business within Iowa, although qualified to do so, during the taxable year, the return must contain a statement to that effect.

For tax years beginning on or after January 1, 1989, every corporation organized under the laws of Iowa, doing business within Iowa, or deriving income from sources consisting of real or tangible property located or having a situs within Iowa, shall file a true and accurate return of its income or loss for the taxable period. The return shall be signed by the president or other duly authorized officer.

For tax years beginning on or after January 1, 1995, every corporation organized under the laws of Iowa, doing business within Iowa, or deriving income from sources consisting of real, tangible, or intangible property located or having a situs within Iowa, shall file a true and accurate return of its income or loss for the taxable period. The return shall be signed by the president or other duly authorized officer. For tax years beginning on or after January 1, 1999, every corporation doing business within Iowa, or deriving income from sources consisting of real, tangible, or intangible property located or having a situs within Iowa, shall file a true and accurate return of its income or loss for the taxable period. The return shall be signed by the president or other duly authorized officer.

Political organizations described in Internal Revenue Code Section 527 which are domiciled in this state and are required to file federal Form 1120POL and pay federal corporation income tax are subject to Iowa corporation income tax to the same extent as they are subject to federal corporation income tax.

Homeowners associations described in Internal Revenue Code Section 528 which are domiciled in this state and are required to file federal Form 1120H and pay federal corporation income tax are subject to Iowa corporation income tax to the same extent as they are subject to federal corporation income tax.

**52.1(1) Definitions.**

*a. Doing business.* The term “doing business” is used in a comprehensive sense and includes all activities or any transactions for the purpose of financial or pecuniary gain or profit. Irrespective of the nature of its activities, every corporation organized for profit and carrying out any of the purposes of its organization shall be deemed to be “doing business.” In determining whether a corporation is doing business, it is immaterial whether its activities actually result in a profit or loss.

For the period from July 1, 1986, through December 31, 1988, the term “doing business” does not include placing of liquor in bailment pursuant to 1986 Iowa Acts, chapter 1246, section 603, if this is the corporation’s sole activity within Iowa. Any activities by corporate officers or employees in Iowa in addition to bailment are “doing business” and will subject the corporation to corporation income tax.

*b. Representative.* A person may be considered a representative even though that person may not be considered an employee for other purposes such as withholding of income tax from commissions.

*c. Tangible property having a situs within this state.* The term “tangible property having a situs within this state” means that tangible property owned or used by a foreign corporation is habitually present in Iowa or it maintains a fixed and regular route through Iowa sufficient so that Iowa could constitutionally under the 14th Amendment and Commerce Clause of the United States Constitution impose an apportioned ad valorem tax on the property. *Central R. Co. v. Pennsylvania*, 370 U.S. 607, 82 S. Ct. 1297, 8 L.Ed.2d (1962); *New York Central & H. Railroad Co. v. Miller*, 202 U.S. 584, 26 S. Ct. 714, 50 L.Ed. 1155 (1906); *American Refrigerator Transit Company v. State Tax Commission*, 395 P.2d 127 (Or. 1964); *Upper Missouri River Corporation v. Board of Review*, Woodbury County, 210 N.W.2d 828.

d. *Intangible property located or having a situs within Iowa.* Intangible property does not have a situs in the physical sense in any particular place. *Wheeling Steel Corporation v. Fox*, 298 U.S. 193, 80 L.Ed. 1143, 56 S.Ct. 773 (1936); *McNamara v. George Engine Company, Inc.*, 519 So.2d 217 (La. App. 1988). The term “intangible property located or having a situs within Iowa” means generally that the intangible property belongs to a corporation with its commercial domicile in Iowa or, regardless of where the corporation which owns the intangible property has its commercial domicile, the intangible property has become an integral part of some business activity occurring regularly in Iowa. *Beidler v. South Carolina Tax Commission*, 282 U.S. 1, 75 L.Ed. 131, 51 S.Ct. 54 (1930); *Geoffrey, Inc. v. South Carolina Tax Commission*, 437 S.E.2d 13 (S.C. 1993), cert. denied, 114 S.Ct. 550 (1993). The following is a noninclusive list of types of intangible property: copyrights, patents, processes, franchises, contracts, bank deposits including certificates of deposit, repurchase agreements, loans, shares of stocks, bonds, licenses, partnership interests including limited partnership interests, leaseholds, money, evidences of an interest in property, evidences of debts, leases, an undivided interest in a loan, rights-of-way, and interests in trusts.

The term also includes every foreign corporation which has acquired a commercial domicile in Iowa and whose property has not acquired a constitutional tax situs outside of Iowa.

**52.1(2) Corporate activities not creating taxability.** Public Law 86-272, 15 U.S.C.A., Sections 381-385, in general prohibits any state from imposing an income tax on income derived within the state from interstate commerce if the only business activity within the state consists of the solicitation of orders of tangible personal property by or on behalf of a corporation by its employees or representatives. Such orders must be sent outside the state for approval or rejection and, if approved, must be filled by shipment or delivery from a point outside the state to be within the purview of Public Law 86-272. Public Law 86-272 does not extend to those corporations which sell services, real estate, or intangibles in more than one state or to domestic corporations.

a. If the only activities in Iowa of a foreign corporation selling tangible personal property are those of the type described in the noninclusive listing below, the corporation is protected from the Iowa corporation income tax law by Public Law 86-272.

(1) The free distribution by salespersons of product samples, brochures, and catalogues which explain the use of or laud the product, or both.

(2) The lease or ownership of motor vehicles for use by salespersons in soliciting orders.

(3) Salespersons' negotiation of a price for a product, subject to approval or rejection outside the taxing state of such negotiated price and solicited order.

(4) Demonstration by salesperson, prior to the sale, of how the corporation's product works.

(5) The placement of advertising in newspapers, radio, and television.

(6) Delivery of goods to customers by foreign corporation in its own or leased vehicles from a point outside the taxing state. Delivery does not include nonimmune activities, such as picking up damaged goods.

(7) Collection of state or local-option sales taxes or state use taxes from customers.

(8) Audit of inventory levels by salespersons to determine if corporation's customer needs more inventory.

(9) Recruitment, training, evaluation, and management of salespersons pertaining to solicitation of orders.

(10) Salespersons' intervention/mediation in credit disputes between customers and non-Iowa located corporate departments.

- (11) Use of hotel rooms and homes for sales-related meetings pertaining to solicitation of orders.
- (12) Salespersons' assistance to wholesalers in obtaining suitable displays for products at retail stores.
- (13) Salespersons' furnishing of display racks to retailers.
- (14) Salespersons' advice to retailers on the art of displaying goods to the public.
- (15) Rental of hotel rooms for short-term display of products.
- (16) Mere forwarding of customer questions, concerns, or problems by salespersons to non-Iowa locations.

b. For tax years beginning on or after January 1, 1996, a foreign corporation will not be considered doing business in this state or deriving income from sources within this state if its only activities within this state are one or more of the following activities:

- (1) Holding meetings of the board of directors or shareholders, or holiday parties, or employee appreciation dinners.
- (2) Maintaining bank accounts.
- (3) Borrowing money, with or without security.
- (4) Utilizing Iowa courts for litigation.
- (5) Owning and controlling a subsidiary corporation which is incorporated in or which is transacting business within this state where the holding or parent company has no physical presence in the state as that presence relates to the ownership or control of the subsidiary.
- (6) Recruiting personnel where hiring occurs outside the state.

c. For tax years beginning on or after January 1, 1997, a foreign corporation will not be considered doing business in this state or deriving income from sources within this state if its only activities within this state, in addition to the activities listed in paragraph "b" above, are training its employees or educating its employees, or using facilities in this state for this purpose.

**52.1(3) Corporate activities creating taxability.** "Solicitation of orders" within Public Law 86-272 is limited to those activities which explicitly or implicitly propose a sale or which are entirely ancillary to requests for purchases. Activities that are entirely ancillary to requests for purchases are ones that serve no independent business function apart from their connection to the soliciting of orders. An activity that is not ancillary to requests for purchases is one that a corporation (taxpayer) has a reason to do anyway whether or not it chooses to allocate it to its sales force operating in Iowa (such as repair, installation, service-type activities, collection on accounts, etc.). Activities that take place after a sale ordinarily will not be entirely ancillary to a request for purchases and, therefore, ordinarily will not be considered in "solicitation of orders." *Wisconsin Department of Revenue v. William Wrigley, Jr. Company*, 60 U.S.L.W. 4622, 505 U.S. \_\_\_\_, 120 L.Ed.2d 174, 112 S.Ct. 2447 (1992).

De minimis activities which are not "solicitation of orders" are protected under Public Law 86-272. Whether in-state nonsolicitation activities are sufficiently de minimis to avoid loss of tax immunity depends upon whether those activities establish only a trivial additional connection with the taxing state. Whether a corporation's nonsolicitation in-state activities are de minimis should not be decided solely by the quantity of one type of such activity but, rather, all types of nonsolicitation activities of the taxpayer should be considered in their totality. *Wisconsin v. Wrigley*, 60 U.S.L.W. 4622, 505 U.S. \_\_\_\_, 120 L.Ed.2d 174, 112 S.Ct. 2447 (1992). Frequency of the activity may be relevant, but an isolated activity is not invariably trivial. The mere fact that an activity involves small amounts of money or property does not invariably mean it is trivial.

If a foreign corporation has greater than a de minimis amount of Iowa nonsolicitation activity which includes activity of the types described in the noninclusive listing below, whether done by the salesperson, other employee, or other representative, it is not immunized from the Iowa corporation income tax by Public Law 86-272.

- a. Installation or assembly of the corporate product.
- b. Ownership or lease of real estate by corporation.
- c. Solicitation of orders for, or sale of, services or real estate.
- d. Sale of tangible personal property (as opposed to solicitation of orders) or performance of services within Iowa.
- e. Maintenance of a stock of inventory.
- f. Existence of an office or other business location.
- g. Managerial activities pertaining to nonsolicitation activities.
- h. Collections on regular or delinquent accounts.
- i. Technical assistance and training given after the sale to purchaser and user of corporate products.
- j. The repair or replacement of faulty or damaged goods.
- k. The pickup of damaged, obsolete, or returned merchandise from purchaser or user.
- l. Rectification of or assistance in rectifying any product complaints, shipping complaints, etc., if more is involved than relaying complaints to a non-Iowa location.
- m. Delivery of corporate merchandise inventory to corporation's distributors or dealers on consignment.
- n. Maintenance of personal property which is not related to solicitation of orders.
- o. Participation in recruitment, training, monitoring, or approval of servicing distributors, dealers, or others where purchasers of corporation's products can have such products serviced or repaired.
- p. Inspection or verification of faulty or damaged goods.
- q. Inspection of the customer's installation of the corporate product.
- r. Research.
- s. Salespersons' use of part of their homes or other places as an office if the corporation pays for such use.
- t. The use of samples for replacement or sale; storage of such samples at home or in rented space.
- u. Removal of old or defective products.
- v. Verification of the destruction of damaged merchandise.
- w. Independent contractors, agents, brokers, representatives and other individuals or entities who act on behalf of or at the direction of the corporation (taxpayer) and who do non-de minimis amounts of nonsolicitation activities remove the corporation from the protection of Public Law 86-272. However, the maintenance of an office in Iowa or the making of sales in Iowa by independent contractors does not remove the corporation from the protection of Public Law 86-272. The term "independent contractors" means commission agents, brokers, or other independent contractors who are engaged in selling or soliciting orders for the sale of tangible personal property or perform other services for more than one principal and who hold themselves out as such in the regular course of their business activities. If a person is subject to the direct control of the foreign corporation that person may not qualify as an independent contractor.

**52.1(4) Taxation of corporations having only intangible property located or having a situs in Iowa.** For tax years beginning on or after January 1, 1995, corporations whose only connection with Iowa is their ownership of intangible property located or having a situs in Iowa are subject to Iowa income tax and must file an Iowa income tax return. Intangible property is located or has a situs in Iowa if the corporation's commercial domicile is in Iowa and the intangible property has not become an integral part of some business activity occurring regularly within or without Iowa. Regardless whether the corporation's commercial domicile is in or out of Iowa, intangible property is located or has a situs in Iowa if the intangible property has become an integral part of some business activity occurring regularly in Iowa. *Geoffrey, Inc. v. South Carolina Tax Commission*, 437 S.E.2d 13 (S.C. 1993), cert. denied, 114 S.Ct. 550 (1993); *Arizona Tractor Company v. Arizona State Tax Commission*, 115 Ariz. 602, 566 P.2d 1348 (Ariz. App. 1977). In the event that the intangible property interest is a general or limited partnership interest, the location or situs of that partnership interest is the place(s) where the partnership conducts business. *Arizona Tractor Company v. Arizona State Tax Commission*, supra.

The following nonexclusive examples illustrate how this subrule applies:

**EXAMPLE 1:** A, a corporation with a commercial domicile in State X, has a limited partnership interest in a partnership which does a regular business in Iowa. A has no physical presence in Iowa and has no other contact with Iowa. A's interest in the limited partnership is intangible personal property. A is required to file an Iowa income tax return because A's intangible personal property limited partnership interest has a business situs in Iowa. *Arizona Tractor Company v. Arizona State Tax Commission*, supra.

**EXAMPLE 2:** B, a corporation with a commercial domicile in State X, owns stock in a subsidiary corporation doing business regularly in Iowa. B has no physical presence in Iowa and has no other contact with Iowa. B controls the subsidiary and has a unitary relationship with it. B pledged the subsidiary stock to secure a line of credit from a bank and used the loaned funds in B's business. Under these circumstances, the subsidiary stock is not an integral part of the subsidiary's business and, therefore, the stock does not have a location or situs in Iowa. Accordingly, B is not required to file an Iowa income tax return as a result of any dividends received by B or capital gains received by B from the sale of the stock. *McNamara v. George Engine Company, Inc.*, 519 So.2d 217 (La. App. 1988).

**EXAMPLE 3:** C, a corporation with a commercial domicile in State X, owns trademarks and trade names which it, by license agreements, allows other corporations to use. Some of those other corporations do business in Iowa. The trademarks and trade names are used by these other corporations at their Iowa stores in connection with their business activities at those stores. C has no physical presence in Iowa and has no other contact with Iowa. C is paid royalties of 1 percent of net sales of the licensed products or services. C is required to file an Iowa income tax return because C's intangible property interests in the trademarks and trade names have situs in Iowa. *Geoffrey, Inc. v. South Carolina Tax Commission*, 437 S.E.2d 13 (S.C. 1993), cert. denied, 114 S.Ct. 550 (1993).

**EXAMPLE 4:** D, a corporation with a commercial domicile in Iowa, is a holding company which does not sell any tangible personal property or sell any business service but which does own the stock of five subsidiaries, all of which do business outside of Iowa. D has no physical presence outside of Iowa and has no other contact outside of Iowa. D has a unitary relationship with each subsidiary. Under these circumstances, the stock is not an integral part of each subsidiary's business so the stock does not have a location or situs outside of Iowa. The location or situs of the stock is in Iowa because D's commercial domicile is in Iowa. Accordingly, all of the dividends from the stock paid to D and any capital gains incurred as a result of D's sale of the stock are wholly taxed by Iowa.

EXAMPLE 5: E, a corporation with a commercial domicile in Iowa, owns trademarks and trade names which it, by license agreements, allows other corporations, located outside of Iowa, to use. The trademarks and trade names are used by these other corporations at their non-Iowa stores in connection with their business activities at those stores. E has no physical presence outside of Iowa and has no other contact outside of Iowa. E has business activities in Iowa. The fees and royalties paid to E are part of E's unitary business income. Under these circumstances, E is entitled to apportion its net income within and without Iowa because E's intangible property interests in the trademarks and trade names have situs outside of Iowa and E has business activities in Iowa.

EXAMPLE 6: F, a corporation with a commercial domicile in State X, owns all of the stock of a subsidiary corporation doing business in Iowa. F has no physical presence in Iowa and no other contact with Iowa. F loans funds to the subsidiary which the subsidiary uses in its Iowa business. Under these circumstances, the interest-bearing asset is not an integral part of the subsidiary's business and, therefore, that intangible asset does not have a location or situs in Iowa. Accordingly, F is not required to file an Iowa income tax return. *Beidler v. South Carolina Tax Commission*, 282 U.S. 1, 75 L.Ed.131, 51 S.Ct. 54 (1930).

EXAMPLE 7: G, a corporation with a commercial domicile in State X, earns fees from the licensing of custom computer software. G has no physical presence in Iowa and no other contact with Iowa. G licenses the software to other corporations which do business in Iowa and which use the software in that business in Iowa. Under these circumstances, regardless whether the fees constitute royalties or something else, the license fees are earned from intangible personal property with a location or situs in Iowa. Accordingly, G is required to file an Iowa income tax return.

EXAMPLE 8: H, a corporation with a commercial domicile in State X, has no physical presence in Iowa. H has entered into a contract with an independent contractor to solicit sales of G's magazines in Iowa. The independent contractor does business in Iowa and receives payment for the magazines and deposits the funds in an Iowa bank for H's account. H earns interest on this account. Under these circumstances which are H's only contact with Iowa, H's interest-bearing account is an integral part of business activity in Iowa. Accordingly, H is required to file an Iowa income tax return and include the interest income in the numerator of the business activity formula.

**52.1(5) Taxation of "S" corporations, domestic international sales corporations and real estate investment trusts.** Certain corporations and other types of entities, which are taxable as corporations for federal purposes, may by federal election and qualification have a portion or all of their income taxable to the shareholders or the beneficiaries. Generally, the state of Iowa follows the federal provisions (with adjustments provided by Iowa law) for determining the amount and to whom the income is taxable. Examples of entities which may avail themselves of pass-through provisions for taxation of at least part of their net income are real estate investment trusts, small business corporations electing to file under Sections 1371-1378 of the Internal Revenue Code, domestic international sales corporations as authorized under Sections 991-997 of the Internal Revenue Code, and certain types of cooperatives and regulated investment companies. The entity's portion of the net income which is taxable as corporation net income for federal purposes is generally also taxable as Iowa corporation income (with adjustments as provided by Iowa law) and the shareholders or beneficiaries will report on their Iowa returns their share of the organization's income reportable for federal purposes as shareholder income (with adjustments provided by Iowa law). Nonresident shareholders or beneficiaries are required to report their distributive share of said income reasonably attributable to Iowa sources. Schedules shall be filed with the individual's return showing the computation of the income attributable to Iowa sources and the computation of the nonresident taxpayer's distributive share thereof. Entities with a nonresident beneficiary or shareholder shall include a schedule in the return computing the amount of income as determined under 701—Chapter 54. It will be the responsibility of the entity to make the apportionment of the income and supply the nonresident taxpayer with information regarding the nonresident taxpayer's Iowa taxable income.

For tax years beginning on or after January 1, 1995, S corporations which are subject to tax on built-in gains under Section 1374 of the Internal Revenue Code or passive investment income under Section 1375 of the Internal Revenue Code are subject to Iowa corporation income tax on this income to the extent received from business carried on in this state or from sources in this state.

a. The starting point for computing the Iowa tax on built-in gains is the amount of built-in gains subject to federal tax after considering the federal income limitation. The starting point for computing the capital gains subject to Iowa tax is the amount of capital gains subject to federal tax. The starting point for computing the passive investment income subject to Iowa income tax is the amount of passive investment income subject to federal tax. To the extent that any of the above three types of income exist for federal income tax purposes, they are combined for Iowa income tax purposes.

b. No adjustment is made to the above amounts for either 50 percent of federal income tax or Iowa corporation income tax deducted in computing the federal net income of the S corporation. The 50 percent of federal income tax and Iowa corporation income tax deducted in computing federal net income are adjustments to the Iowa net income which flows through to the shareholders.

c. The allocation and apportionment rules of 701—Chapter 54 apply to nonresident shareholders if the S corporation is carrying on business within and without the state of Iowa.

d. Any net operating loss carryforward arising in a taxable year for which the corporation was a C corporation shall be allowed as a deduction against the net recognized built-in gain, capital gains, or passive investment income of the S corporation for the taxable year. For purposes of determining the amount of any such loss which may be carried to any of the 15 subsequent taxable years, after the year of the net operating loss, the amount of the net recognized built-in gain shall be treated as taxable income.

e. Except for estimated and other advance tax payments and any credit carryforward under Iowa Code section 422.33 arising in a taxable year for which the corporation was a C corporation no credits shall be allowed against the built-in gains tax or the tax on capital gains or passive investment income.

For tax years beginning after 1996, Iowa recognizes the federal election to treat subsidiaries of a parent corporation that has elected S corporation status as “qualified subchapter S subsidiaries” (QSSSs). To the extent that, for federal income tax purposes, the incomes and expenses of the QSSSs are combined with the parent’s income and expenses, they must be combined for Iowa tax purposes.

**52.1(6) Exempted corporations and organizations filing requirements.**

a. *Exempt status.* An organization that is exempt from federal income tax under Section 501 of the Internal Revenue Code, unless the exemption is denied under Section 501, 502, 503 or 504 of the Internal Revenue Code, is exempt from Iowa corporation income tax except as set forth in paragraph “e” of this subrule. The department may, if a question arises regarding the exempt status of an organization, request a copy of the federal determination letter.

b. *Information returns.* Every corporation shall file returns of information as provided by Iowa Code sections 422.15 and 422.16 and any regulations regarding information returns.

c. *Annual return.* An organization or association which is exempt from Iowa corporation income tax because it is exempt from federal income tax is not required to file an annual income tax return unless it is subject to the tax on unrelated business income. The organization shall inform the director in writing of any revocation of or change of exempt status by the Internal Revenue Service within 30 days after the federal determination.

d. *Tax on unrelated business income for tax years beginning prior to January 1, 1988.* Where a corporation or organization is subject to the federal income tax imposed by Section 511 of the Internal Revenue Code on unrelated business income, such corporation or organization is not subject to Iowa corporation income tax on the unrelated business income. Opinion of the Attorney General, Griger to Craft, February 13, 1978.

*e. Tax on unrelated business income for tax years beginning on or after January 1, 1988.* A tax is imposed on the unrelated business income of corporations, associations, and organizations exempt from the general business tax on corporations by Iowa Code section 422.34, subsections 2 through 6, to the extent this income is subject to tax under the Internal Revenue Code. The exempt organization is also subject to the alternative minimum tax imposed by Iowa Code section 422.33(4).

The exempt corporation, association, or organization must file Form IA 1120, Iowa Corporation Income Tax Return, to report its income and complete Form IA 4626 if subject to the alternative minimum tax. The exempt organization must make estimated tax payments if its expected income tax liability for the year is \$1,000 or more.

The tax return is due the last day of the fourth month following the last day of the tax year and may be extended for six months by filing Form IA 7004 prior to the due date. For tax years beginning on or after January 1, 1991, the tax return is due on the fifteenth day of the fifth month following close of the tax year and may be extended six months by filing Form IA 7004 prior to the due date.

The starting point for computing Iowa taxable income is federal taxable income as properly computed before deduction for net operating losses. Federal taxable income shall be adjusted as required in Iowa Code section 422.35.

If the activities which generate the unrelated business income are carried on partly within and partly without the state, then the taxpayer should determine the portion of unrelated business income attributable to Iowa by the apportionment and allocation provisions of Iowa Code section 422.33.

The provisions of 701—Chapters 51, 52, 53, 54, 55 and 56 apply to the unrelated business income of organizations exempt from the general business tax on corporations.

**52.1(7) *Income tax of corporations in liquidation.*** When a corporation is in the process of liquidation, or in the hands of a receiver, the income tax returns must be made under oath or affirmation of the persons responsible for the conduct of the affairs of such corporations, and must be filed at the same time and in the same manner as required of other corporations.

**52.1(8) *Income tax returns for corporations dissolved.*** Corporations which have been dissolved during the income year must file income tax returns for the period prior to dissolution which has not already been covered by previous returns. Officers and directors are responsible for the filing of the returns and for the payment of taxes, if any, for the audit period provided by law.

Where a corporation dissolves and disposes of its assets without making provision for the payment of its accrued Iowa income tax, liability for the tax follows the assets so distributed and upon failure to secure the unpaid amount, suit to collect the tax may be instituted against the stockholders and other persons receiving the property, to the extent of the property received, except bona fide purchasers or others as provided by law.

This rule is intended to implement Iowa Code sections 422.21, 422.32, 422.33 as amended by 1999 Iowa Acts, chapter 151, 422.34, 422.34A and 422.36.

## **701—52.2(422) Time and place for filing return.**

**52.2(1) *Returns of corporations.*** A return of income for all corporations must be filed on or before the due date. The due date for all corporations excepting cooperative associations as defined in Section 6072(d) of the Internal Revenue Code is the last day of the fourth month following the close of the taxpayer's taxable year, whether the return be made on the basis of the calendar year or the fiscal year; or the last day of the period covered by an extension of time granted by the director. When the due date falls on a Saturday, Sunday or a legal holiday, the return will be due the first business day following the Saturday, Sunday or legal holiday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. Mailed returns should be addressed to Corporate Income Tax Processing, Hoover State Office Building, Des Moines, Iowa 50319.



**52.2(2) *Returns of cooperatives.*** A return of income for cooperatives, defined in Section 6072(d) of the Internal Revenue Code, must be filed on or before the fifteenth day of the ninth month following the close of the taxpayer's taxable year.

**52.2(3) *Short period returns.*** Where under a provision of the Internal Revenue Code, a corporation is required to file a tax return for a period of less than 12 months, a short period Iowa return must be filed for the same period. The short period Iowa return is due 45 days after the federal due date, not considering any federal extension of time to file.

**52.2(4) *Extension of time for filing returns for tax years beginning on or after January 1, 1991.*** See 701—subrule 39.2(4).

This rule is intended to implement Iowa Code sections 422.21 and 422.24.

**701—52.3(422) Form for filing.**

**52.3(1) *Use and completeness of prescribed forms.*** Returns shall be made by corporations on forms supplied by the department. Taxpayers not supplied with the proper forms shall make application for same to the department in ample time to have their returns made, verified and filed on or before the due date. Each taxpayer shall carefully prepare the taxpayer's return so as to fully and clearly set forth the data required. For lack of a prescribed form, a statement made by a taxpayer disclosing the taxpayer's gross income and the deductions therefrom may be accepted as a tentative return, and if verified and filed within the prescribed time, will relieve the taxpayer from liability to penalties, provided that without unnecessary delay such a tentative return is replaced by a return made on the proper form. Each question shall be answered and each direction complied with in the same manner as if the forms and instructions were embodied in these rules.

Failure to receive the proper forms does not relieve the taxpayer from the obligation of making any return required by the statute.

Returns received which are not completed, but merely state "see schedule attached" are not considered to be a properly filed return and may be returned to the taxpayer for proper completion. This may result in the imposition of penalties and interest due to the return being filed after the due date.

**52.3(2) *Form for filing—domestic corporations.*** A domestic corporation, as defined by Iowa Code subsection 422.32(2), is required to file a complete Iowa return for each year of its existence regardless of whether the corporation has income, loss, or inactivity. However, the corporation may substitute a copy of the true and accurate federal income tax return as filed with the Internal Revenue Service in lieu of certain Iowa return schedules. This substitution is optional, but in all instances a detailed computation of the federal tax liability actually due the federal government shall be required as a part of the Iowa return. The Iowa schedules subject to the substitution provision are: income statement, balance sheet, reconciliation of income per books with income per return and analysis of unappropriated retained earnings per books.

When a domestic corporation is included in the filing of a consolidated federal income tax return, the Iowa corporation income tax return shall include a schedule of the consolidating income statements as properly computed for federal income tax purposes showing the income and expenses of each member of the consolidated group, and a schedule of capital gains on a separate basis.

If a domestic corporation claims a foreign tax credit, investment credit, or work incentive credit on its federal income tax return, a detailed computation of the credits claimed shall be included with the Iowa return upon filing. In those instances where the domestic corporation is involved in the filing of a consolidated federal income tax return, the credit computations shall be reported on a separate entity basis.

Similarly, where a domestic corporation is charged with a holding company tax, minimum tax, or tax from recomputing a prior year's investment credit, the details of the taxes levied shall be put forth in a schedule to be included with the Iowa return. Furthermore, these taxes shall be identified on a separate company basis where the domestic corporation files as a member of a consolidated group for federal purposes.

**52.3(3) *Form for filing—foreign corporations.*** Foreign corporations, as defined by Iowa Code subsection 422.32(3), must include a true and accurate copy of their federal corporation income tax return as filed with the Internal Revenue Service with the filing of their Iowa return. At a minimum this includes the following federal schedules: income statement, balance sheet, reconciliation of income per books with income per return, analysis of unappropriated retained earnings per books, dividend income and special deductions, cost of goods sold, capital gains, tax computation and tax deposits, investment credit computation and recapture, work incentive credit computation, foreign tax credit computation, minimum tax computation, and statements detailing other income and other deductions.

When a foreign corporation whose income is included in a consolidated federal income tax return files an Iowa return, federal consolidating income statements as properly computed for federal income tax purposes showing the income and expenses of each member of the consolidated group shall be required together with the following additional schedules on a separate basis:

- a. Capital gains.
- b. Investment credit computation.
- c. Investment credit recapture.
- d. Work incentive credit computation.
- e. Foreign tax credit computation.
- f. Holding company tax computation.
- g. Minimum tax computation.
- h. Schedules detailing other income and other deductions.

**52.3(4) *Amended returns.*** If it becomes known to the taxpayer that the amount of income reported to be federal net income or Iowa taxable income was erroneously stated on the Iowa return, or changed by Internal Revenue Service audit, or otherwise, the taxpayer shall file an amended Iowa return along with supporting schedules, to include the amended federal return and a copy of the federal revenue agent's report if applicable. A copy of the federal revenue agent's report and notification of final federal adjustments provided by the taxpayer will be acceptable in lieu of an amended return. The assessment or refund of tax shall be dependent on the statute of limitations as set forth in 701—subrule 51.2(1) and rule 701—55.3(422).

This rule is intended to implement Iowa Code section 422.21.

#### **701—52.4(422) Payment of tax.**

**52.4(1) *Quarterly estimated payments.*** Effective for taxable years beginning on or after July 1, 1977, corporations are required to make quarterly payments of estimated income tax. Rules pertaining to the estimated tax are contained in 701—Chapter 56.

**52.4(2) *Full estimated payment on original due date.*** Rescinded IAB 3/15/95, effective 4/19/95.

**52.4(3)** Rescinded IAB 1/23/91.

**52.4(4) *Payment of tax by uncertified checks.*** The department will accept uncertified checks in payment of income taxes, provided the checks are collectible for their full amount without any deduction for exchange or other charges unless requirements for electronic transmission of remittances and related information specify otherwise. The date on which the department receives the check will be considered the date of payment, so far as the taxpayer is concerned, unless the check is dishonored. If one check is remitted to cover two or more corporations' taxes, the remittance must be accompanied by a letter of transmittal stating: (a) the name of the drawer of the check; (b) the amount of the check; (c) the amount of any cash, money order or other instrument included in the same remittance; (d) the name of each corporation whose tax is to be paid by the remittance; and (e) the amount of payment on account of each corporation.

**52.4(5) *Procedure with respect to dishonored checks.*** If any check is returned unpaid, all expenses incidental to the collection thereof will be charged to the taxpayer. If any taxpayer whose check has been returned by the depository bank uncollected should fail at once to make the check good, the director will proceed to collect the tax as though no check had been given. A taxpayer who tenders a certified check in payment for taxes is not relieved from his obligation until the check has been paid.

**52.4(6) *New jobs credit.*** Transferred to 52.8(422) IAB 11/28/90, effective 1/2/91.

This rule is intended to implement Iowa Code sections 422.21, 422.24, 422.25, 422.33 and 422.86.

## **701—52.5(422) Minimum tax.**

**52.5(1)** Effective for tax years beginning on or after January 1, 1982, but before January 1, 1987, an Iowa minimum tax is imposed in addition to the tax computed under Iowa Code section 422.33. The Iowa minimum tax on tax preference items is a percentage of the federal minimum tax for tax preferences computed under Sections 56 through 58 of the Internal Revenue Code for the tax year. For tax years beginning on or after January 1, 1986, "federal minimum tax" means the federal minimum tax for tax preferences computed under Sections 56 through 58 except Section 57(a)(8) of the Internal Revenue Code for the tax year.

For a corporation conducting 100 percent of its business within Iowa as defined in rule 701—54.1(422), the Iowa minimum tax is a percentage of the federal minimum tax. For a corporation doing business both within and without Iowa, the state's portion of the federal minimum tax shall be based upon the apportionment provisions of rules 701—54.5(422) to 54.8(422) unless an alternative method more accurately reflects that portion of minimum tax attributable to Iowa.

When a corporation joins with at least one other corporation in the filing of a consolidated federal income tax return, and files a separate Iowa corporation income tax return, the consolidated federal minimum tax shall be allocated to the separate corporations. The allocation of the consolidated federal minimum tax shall be determined as follows: The consolidated federal minimum tax is multiplied by a fraction, the numerator of which is the sum of the taxpayer's federal tax preference items and the denominator of which is the total of the federal tax preference items of each corporation included in the consolidated federal income tax return.

For tax years beginning on or after January 1, 1982, and prior to January 1, 1983, the Iowa minimum tax is 25 percent of the state's apportioned share of the federal minimum tax on tax preference items.

For tax years beginning on or after January 1, 1983, the Iowa minimum tax is 70 percent of the state's apportioned share of the federal minimum tax on tax preference items.

**52.5(2)** For tax years beginning after 1997, a small business corporation or a new corporation for its first year of existence, which through the operation of Internal Revenue Code Section 55(e) is exempt from the federal alternative minimum tax, is not subject to Iowa alternative minimum tax. A small business corporation may apply any alternative minimum tax credit carryforward to the extent of its regular corporation income tax liability.

For tax years beginning on or after January 1, 1987, the minimum tax is imposed only to the extent that it exceeds the taxpayer's regular tax liability computed under Iowa Code subsection 422.33(1). The minimum tax rate is 60 percent of the maximum corporate tax rate rounded to the nearest one-tenth of 1 percent or 7.2 percent. Minimum taxable income is computed as follows:

	State taxable income as adjusted by Iowa Code section 422.35
Plus:	Tax preference items, adjustments and losses added back
Less:	Allocable income including allocable preference items and adjustments under Section 56 of the Internal Revenue Code including adjusted current earnings related to allocable income including the allocable preference items
	Subtotal
Times:	Apportionment percentage
	Result
Plus:	Income allocable to Iowa including allocable preference items and adjustments under Section 56 of the Internal Revenue Code including adjusted current earnings related to allocable income including the allocable preference items
Less:	Iowa alternative tax net operating less deduction \$40,000 exemption amount
Equals:	Iowa alternative minimum taxable income

For tax years beginning on or after January 1, 1987, the items of tax preference are the same items of tax preference under Section 57 except for Subsections (a)(1) and (a)(5) of the Internal Revenue Code used to compute federal alternative minimum taxable income. The adjustments to state taxable income are those adjustments required by Section 56 except for Subsections (a)(4) and (d) of the Internal Revenue Code used to compute federal alternative minimum taxable income. In making the adjustment under Section 56(c)(1) of the Internal Revenue Code, interest and dividends from federal securities net of amortization of any discount or premium shall be subtracted. For tax years beginning on or after January 1, 1988, in making the adjustment under Section 56(c)(1) of the Internal Revenue Code, interest and dividends from state and other political subdivisions and from regulated investment companies exempt from federal income tax under the Internal Revenue Code shall be subtracted net of amortization of any discount or premium. In making the adjustment for adjusted current earnings, subtract Foreign Sales Company (FSC) dividend income and Puerto Rican dividend income computed under Internal Revenue Code Section 936 to the extent they are included in the federal computation of adjusted current earnings. Losses to be added are those losses required to be added by Section 58 of the Internal Revenue Code in computing federal alternative minimum taxable income.

- a. Tax preference items are:
  1. Intangible drilling costs;
  2. Incentive stock options;
  3. Reserves for losses on bad debts of financial institutions;
  4. Appreciated property charitable deductions;
  5. Accelerated depreciation or amortization on certain property placed in service before January 1, 1987.
- b. Adjustments are:
  1. Depreciation;
  2. Mining exploration and development;
  3. Long-term contracts;
  4. Iowa alternative minimum net operating loss deduction;
  5. Book income or adjusted earnings and profits.

- c. Losses added back are:
  - 1. Farm losses;
  - 2. Passive activity losses.

Computation of Iowa alternative minimum tax net operating loss deduction.

Net operating losses computed under rule 701—53.2(422) carried forward from tax years which begin before January 1, 1987, are deductible without adjustment.

Net operating losses from tax years which begin after December 31, 1986, which are carried back or carried forward to the current tax year shall be reduced by the amount of tax preferences and adjustments taken into account in computing the net operating loss prior to applying rule 701—52.2(422). The deduction for a net operating loss from a tax year beginning after December 31, 1986, which is carried back or carried forward shall not exceed 90 percent of the alternative minimum taxable income computed without regard for the net operating loss deduction.

The exemption amount shall be reduced by 25 percent of the amount that the alternative minimum taxable income computed without regard to the \$40,000 exemption exceeds \$150,000. The exemption shall not be reduced below zero.

EXAMPLE: The following example shows the computation of the alternative minimum tax when there are net operating loss carryforwards and carrybacks including an alternative minimum tax net operating loss.

For tax year 1987, the following information is available:

Federal taxable income before NOL	\$182,000
Federal NOL carryforward	<97,000>
Federal income tax	19,750
Tax preferences and adjustments	48,000
Iowa income tax expensed on federal	2,570
Iowa NOL carryforward	147,000

For tax year 1988, the following information is available:

Federal taxable income before NOL	\$<154,000>
Federal income tax refund	15,460
Tax preferences and adjustments	78,000
Iowa income tax refund reported on federal	2,570

The alternative minimum tax for 1987 before the 1988 net operating loss carryback should be computed as follows:

Regular Iowa Tax	
Federal taxable income	\$182,000
less 50% federal tax	<9,875 >
add Iowa income tax expensed	2,570
Iowa taxable income before NOL carryforward	<u>\$174,695</u>
less NOL carryforward	<147,000 >
Iowa taxable income	\$ 27,695
Iowa income tax	\$ 1,716

## Alternative Minimum Tax

Iowa taxable income before NOL	\$174,695
add preferences and adjustments	48,000
Total	<u>\$222,695</u>
less NOL carryforward*	<147,000 >
Iowa alternative taxable income	<u>\$ 75,695</u>
less exemption amount	<40,000 >
Total	<u>\$ 35,695</u>
Times 7.2%	2,570
Less regular tax	<1,715 >
Alternative minimum tax	<u>\$ 855</u>

\*Net operating loss carryforwards from tax years beginning before January 1, 1987, are deductible at 100 percent without reduction for items of tax preference or adjustments arising in the tax year.

The alternative minimum tax for 1987 after the 1988 net operating loss carryback should be computed as follows:

## Regular Iowa Tax

Federal taxable income	\$ 182,000
less 50% federal tax	<9,875 >
add Iowa income tax expensed	2,570
Iowa taxable income before NOL carryforward	<u>\$ 174,695</u>
less NOL carryforward	<147,000 >
	<u>\$ 27,695</u>
less NOL carryback from 1988 <sup>1</sup>	<148,840 >
NOL carryforward	<u>\$ &lt;121,145 &gt;</u>

## Alternative Minimum Tax

Iowa taxable income before NOL	\$ 174,695
add preferences and adjustments	48,000
Total	<u>\$ 222,695</u>
less NOL carryforward from pre-1987 tax year	<147,000 >
Total	<u>\$ 75,695</u>
less alternative minimum tax NOL <sup>2</sup>	<68,126 >
Total	<u>\$ 7,569</u>
less exemption	<40,000 >
Alternative minimum taxable income after NOL	<u>\$ -0-</u>

<sup>1</sup>Computation of 1988 Iowa NOL

Federal NOL	\$ <154,000 >
add 50% of federal refund	7,730
less Iowa refund in federal income	<2,570 >
Iowa NOL	<u>\$ &lt;148,840 &gt;</u>

<sup>2</sup>Computation of 1988 Alternative Minimum Tax NOL

Iowa NOL	\$ <148,840 >
add preferences and adjustments	78,000
Total	<u>\$ &lt;70,840 &gt;</u>
NOL carryback limited to 90% of alternative minimum income before NOL and exemption*	\$ <68,126 >
Alternative minimum tax NOL carryforward	<u>\$ 2,705</u>

\*For purposes of the alternative minimum tax, net operating loss carryforward or carryback from tax years beginning after December 31, 1986, must be reduced by items of tax preference and adjustments, and are limited to 90 percent of alternative minimum taxable income before deduction of the post-1986 NOL and the \$40,000 exemption amount ( $\$75,695 \times 90\% = \$68,126$ ).

**52.5(3)** Renumbered as 701—10.56(422), IAB 1/23/91.

**52.5(4)** Alternative minimum tax credit for minimum tax paid in a prior tax year. Minimum tax paid in prior tax years commencing with tax years beginning on or after January 1, 1987, by a taxpayer can be claimed as a tax credit against the taxpayer's regular income tax liability in a subsequent tax year. Therefore, 1988 is the first tax year that the minimum tax credit is available for use and the credit is based on the minimum tax paid by the taxpayer for 1987. However, only the portion of the minimum tax which is attributable to those adjustments and tax preferences which are "deferral items" qualifies for the minimum tax credit. "Deferral items" are those tax preferences and adjustments which result in a temporary change in a taxpayer's tax liability. An example of a "deferral item" is the tax preference for accelerated depreciation of real property placed in service before 1987. On the other hand, the portion of the minimum tax which is attributable to the "exclusion item" for appreciated property charitable deduction does not qualify for the minimum tax credit. The appreciated property charitable deduction tax preference is the only state "exclusion item," although there are several "exclusion items" which are used to compute federal minimum tax. The minimum tax credit may only be used against regular income tax for a tax year to the extent that the regular tax is greater than the tentative minimum tax for the tax year. If the minimum tax credit is not used up against the regular tax for a tax year the remaining credit is carried to the following tax year to be applied against the regular income tax liability for that period.

a. Computation of minimum tax credit on Form IA 8801C. The minimum tax credit is computed on Form IA 8801C from information on Form IA 4626 for the prior tax year, Form IA 1120 and Form IA 4626 for the current year and from Form IA 8801C for the prior year (applies in 1989 and in subsequent tax years).

Form IA 8801C is in three parts. In the first part, a calculation is made to determine the portion of the minimum tax paid in the prior year, if any, which is attributable to the exclusion item for appreciated property charitable deduction. In the second portion of Form IA 8801C, the minimum tax attributable to the appreciated property charitable deduction from Part I, is subtracted from the total minimum tax paid for the prior year. The remaining amount of minimum tax is attributable to the deferral tax preference items and adjustment items. This remaining amount, if any, is added to the minimum tax carryover credit from the IA 8801C for the prior tax year, if any. This total is compared to the regular income tax liability less the credits set forth in Iowa Code section 422.33, less the tentative minimum tax for the current year and the lesser amount is the allowable minimum tax credit for the current year.

The final part of Form IA 8801C is used to compute the minimum tax credit, if any, which will be carried over to the next tax year. The carryover credit is computed by subtracting the allowable credit for the current tax year from the total of the minimum tax credit attributable to the deferral items and the carryover credit from the prior tax years.

b. EXAMPLE. Taxpayer had a 1989 taxable income of \$300,000 and an accelerated depreciation tax preference of \$80,000. In 1988 the taxpayer had taxable income of \$345,000 and tax preferences of \$145,000 which consisted of \$110,000 of accelerated depreciation and \$35,000 of appreciated property charitable deduction. The minimum tax credit for 1989 was computed on Form IA 8801C using data from IA 4626 for 1988 and from IA 4626 for 1989 and IA 1120 for 1989.

Form IA 8801C

Part I. Computation of Minimum Tax on Exclusion Items		
Line 11 - Gross tax on exclusion items		-0-
Line 12 - Less regular tax minus credits		\$33,900
Line 13 - Net minimum tax on exclusion items		-0-
Part II. Computation of Allowable Credit for 1989		
Line 14 - Enter amount from line 17 IA 4626 for 1988		\$ 1,380
Line 15 - Enter amount from line 13 part I		-0-
Line 16 - Subtract line 15 from line 14		\$ 1,380
Line 17 - Enter credit carryforward from 1987		-0-
Line 18 - Add lines 16 and 17		\$ 1,380
Line 19 - Enter 1989 regular tax liability		\$28,500
Line 20 - Enter 1989 tentative minimum tax		\$27,360
Line 21 - Subtract line 20 from line 19		\$ 1,140
Line 22 - Allowable minimum tax credit for 1989. Enter smaller of line 18 or 21.		\$ 1,140
Part III. Computation of Minimum Tax Credit Carryovers		
Line 23 - Enter amount from line 18 part II		\$ 1,380
Line 24 - Enter amount from line 22 part II		\$ 1,140
Line 25 - Carryforward of minimum tax credit to 1990. Subtract line 24 from line 23.		\$ 240



c. Computation of the minimum tax credit attributable to a member leaving an affiliated group filing a consolidated Iowa corporation income tax return. The amount of minimum tax credit available for carryforward attributable to a member of a consolidated Iowa income tax return shall be computed as follows: The consolidated minimum tax credit available for carryforward from each tax year is multiplied by a fraction, the numerator of which is the separate member's tax preferences and adjustments for the tax year and the denominator of which is the total tax preferences and adjustments of all members of the consolidated Iowa income tax return for the tax year.

d. Computation of the amount of minimum tax credit which may be used by a new member of a consolidated Iowa corporation income tax return. The amount of minimum tax credit carryforward which may be used by a new member of a consolidated Iowa income tax return is limited to the separate member's contribution to the amount by which the regular income tax less credits set forth in Iowa Code section 422.33 exceeds the tentative minimum tax.

The separate member's contribution to the amount by which the regular income tax less nonrefundable credits exceeds the tentative minimum tax shall be computed as follows:

$$\frac{\left[ \frac{A}{B} \times C + D \right] \times F}{E} = \text{Separate member's contribution to the amount by which regular income tax less credits set forth in section 422.33 exceeds the tentative minimum tax.}$$

A = Separate corporation gross sales within Iowa after elimination of all intercompany transactions.

B = Consolidated gross sales within and without Iowa after elimination of all intercompany transactions.

C = Iowa consolidated income subject to apportionment.

D = Separate corporation income allocable to Iowa.

E = Iowa consolidated income subject to tax.

F = The amount by which the regular income tax less credits set forth in Iowa Code section 422.33 exceeds the tentative minimum tax.

e. Minimum tax credit after merger. When two or more corporations merge or consolidate into one corporation, the minimum tax credit of the merged or consolidated corporations is not available for use by the survivor of the merger or consolidation.

This rule is intended to implement Iowa Code section 422.33.

#### **701—52.6(422) Motor fuel credit.**

**52.6(1)** *For tax years beginning on or after January 1, 1975, but before July 1, 1986.* A corporation may elect to receive an income tax credit in lieu of the motor fuel tax refund provided by Iowa Code chapter 452A. A corporation which holds a motor fuel refund permit under Iowa Code section 452A.18 must cancel its permit before it becomes eligible to take a motor fuel credit on the corporate income tax return. The permit must be canceled within 30 days after the first day of the corporation's tax year. Once an election is made, it will continue for subsequent tax years unless a new motor fuel tax refund permit is obtained.

The amount of income tax credit shall be the amount of Iowa motor fuel tax paid on qualifying fuel purchases as determined by Iowa Code chapter 452A and section 422.110 less any state sales tax deductible under Iowa Code subsection 422.52(4). The credit shall be deducted on the tax return filed for the year in which the motor fuel tax was paid. If the motor fuel credit results in an overpayment of income tax, the overpayment may be refunded or credited to income tax due in subsequent years.

The motor fuel credit option is available on corporate income tax returns filed for tax years beginning on or after January 1, 1975.

Effective for tax returns which are timely filed after January 1, 1980, members of partnerships or S corporations may claim a credit for their respective share of the motor vehicle fuel tax paid by the partnership or S corporation. The credit is to be shared in the same ratio as the person's pro-rata share of the earnings from the partnership or S corporation. In order to be eligible for the tax credit, the partnership or S corporation must not hold a valid motor vehicle fuel refund permit during the tax year or the permit must have been canceled within 30 days after the beginning of the tax year. A schedule must be attached to the individual's return showing the distribution of gallons and the amount of credit claimed by each partner or shareholder.

The corporation or partnership must attach to its return a schedule showing the allocation to each shareholder or partner of gallons purchased.

**52.6(2)** *For tax years beginning on or after July 1, 1986.* A corporation may elect to receive an income tax credit in lieu of the motor fuel tax refund provided by Iowa Code chapter 452A. A corporation which holds a motor fuel refund permit when it makes this election must cancel the permit within 30 days after the first day of the tax year. However, if the refund permit is not canceled within this period, the permit becomes invalid at the time the election to receive an income tax credit is made. The election will continue for subsequent tax years unless a new motor fuel tax refund permit is obtained.

The amount of the income tax credit must be the amount of Iowa motor fuel tax paid on qualifying fuel purchases as determined by Iowa Code chapter 452A and Iowa Code section 422.110 less any state sales tax deductible under Iowa Code subsection 422.52(4). The credit must be claimed on the tax return covering the tax year in which the motor fuel tax was paid. If the motor fuel credit results in an overpayment of income tax, the overpayment may be refunded or may be credited to income tax due in the subsequent tax year.

Shareholders of S corporations may claim an income tax credit on their individual income tax returns for their respective shares of the motor vehicle fuel taxes paid by the corporations. The credit for a shareholder is that person's pro-rata share of the fuel tax paid by the corporation. A schedule must be attached to the individual's return showing the distribution of gallons and the amount of credit claimed by each shareholder or partner.

The corporation must attach to its return a schedule showing the allocation to each shareholder of the motor fuel purchased by the corporation.

This rule is intended to implement Iowa Code section 422.33.

**701—52.7(422) Research activities credit.** Effective for tax years beginning on or after January 1, 1985, taxpayers are allowed a tax credit equal to 6.5 percent of the state's apportioned share of qualifying expenditures for increasing research activities. For purposes of this credit, "qualifying expenditures" means the qualifying expenditures for increasing research activities as defined for purposes of the federal credit for increasing research activities computed under Section 41 of the Internal Revenue Code. For tax years beginning on or after January 1, 1991, "qualifying expenditures" means the qualifying expenditures for increasing research activities as defined for purposes of the federal credit for increasing research activities computed under Section 41 of the Internal Revenue Code as in effect on January 1, 1998. The Iowa research activities credit is made permanent for tax years beginning on or after January 1, 1991, even though there may no longer be a research activities credit for federal income tax purposes. The "state's apportioned share of qualifying expenditures for increasing research activities" must be the ratio of the qualified expenditures in Iowa to total qualified expenditures times total qualifying expenditures for increasing research activities.

**52.7(1) *Qualified expenditures in Iowa are:***

- a. Wages for qualified research services performed in Iowa.
- b. Cost of supplies used in conducting qualified research in Iowa.
- c. Rental or lease cost of personal property used in Iowa in conducting qualified research. Where personal property is used both within and without Iowa in conducting qualified research, the rental or lease cost must be prorated between Iowa and non-Iowa use by the ratio of days used in Iowa to total days used both within and without Iowa.
- d. Sixty-five percent of contract expenses paid by a corporation to a qualified organization for basic research performed in Iowa.

**52.7(2) *Total qualified expenditures are:***

- a. Wages paid for qualified research services performed everywhere.
- b. Cost of supplies used in conducting qualified research everywhere.
- c. Rental or lease cost of personal property used in conducting qualified research everywhere.
- d. Sixty-five percent of contract expenses paid by a corporation to a qualified organization for basic research performed everywhere.

Qualifying expenditures for increasing research activities is the smallest of the amount by which the qualified research expenses for the taxable year exceed the base period research expenses or 50 percent of the qualified research expenses for the taxable year.

A shareholder in an S corporation may claim the pro-rata share of the Iowa credit for increasing research expenditures on the shareholder's individual income tax return. The S corporation must provide each shareholder with a schedule showing the computation of the corporation's Iowa credit for increasing research expenditures and the shareholder's pro-rata share. The shareholder's pro-rata share of the Iowa credit for increasing research activities must be in the same ratio as the shareholder's pro-rata share in the earnings of the S corporation.

Any research credit in excess of the corporation's tax liability less the credits authorized in Iowa Code sections 422.33, 422.91 and 422.111 may be refunded to the taxpayer or credited to the estimated tax of the taxpayer for the following year.

This rule is intended to implement Iowa Code section 422.33 as amended by 1998 Iowa Acts, Senate File 2357.

**701—52.8(422) New jobs credit.** A tax credit is available to a corporation which has entered into an agreement under Iowa Code chapter 260E and has increased employment by at least 10 percent.

**52.8(1) *Definitions.***

a. The term "*new jobs*" means those jobs directly resulting from a project covered by an agreement authorized by Iowa Code chapter 260E (Iowa Industrial New Jobs Training Act) but does not include jobs of recalled workers or replacement jobs or other jobs that formerly existed in the industry in the state.

b. The term "*jobs directly related to new jobs*" means those jobs which directly support the new jobs but does not include in-state employees transferred to a position which would be considered to be a job directly related to new jobs unless the transferred employee's vacant position is filled by a new employee.

EXAMPLE A. A taxpayer who has entered into a chapter 260E agreement to train new employees for a new product line transfers an in-state employee to be supervisor of the new product line but does not fill the transferred employee's position. The new supervisor's position would not be considered a job directly related to new jobs even though it directly supports the new jobs because the transferred employee's old position was not refilled.

EXAMPLE B. A taxpayer who has entered into a chapter 260E agreement to train new employees for a new product line transfers an in-state employee to be supervisor of the new product line and fills the transferred employee's position with a new employee. The new supervisor's position would be considered a job directly related to new jobs because it directly supports the new jobs and the transferred employee's old position was filled by a new employee.

The burden of proof that a job is directly related to new jobs is on the taxpayer.

c. The term "*taxable wages*" means those wages upon which an employer is required to contribute to the state unemployment fund as defined in Iowa Code subsection 96.19(37) for the year in which the taxpayer elects to take the new jobs tax credit. For fiscal-year taxpayers, "taxable wages" shall not be greater than the maximum wage upon which an employer is required to contribute to the state unemployment fund for the calendar year in which the taxpayer's fiscal year begins.

d. The term "*agreement*" means an agreement entered into under Iowa Code chapter 260E after July 1, 1985, an amendment to that agreement, or an amendment to an agreement entered into before July 1, 1985, if the amendment sets forth the base employment level as of the date of the amendment. The term "agreement" also includes a preliminary agreement entered into under Iowa Code chapter 260E provided the preliminary agreement contains all the elements of a contract and includes the necessary elements and commitment relating to training programs and new jobs.

e. The term "*base employment level*" means the number of full-time jobs an industry employs at a plant site which is covered by an agreement under chapter 260E on the date of the agreement.

f. The term "*project*" means a training arrangement which is the subject of an agreement entered into under Iowa Code chapter 260E.

g. The term "*industry*" means a business engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excludes retail, health or professional services. Industry does not include a business which closes or substantially reduces its operations in one area of the state and relocates substantially the same operation in another area of the state. Industry is a business engaged in the above listed activities rather than the generic definition encompassing all businesses in the state engaged in the same activities. For example, in the meat-packing business, an industry is considered to be a single corporate entity or operating division, rather than the entire meat-packing business in the state.

h. The term "*new employees*" means the same as new jobs or jobs directly related to new jobs.

i. The term "*full-time job*" means any of the following:

- (1) An employment position requiring an average work week of 35 or more hours;
- (2) An employment position for which compensation is paid on a salaried full-time basis without regard to hours worked; or
- (3) An aggregation of any number of part-time or job-sharing employment positions which equal one full-time employment position. For purposes of this subrule each part-time or job-sharing employment position shall be categorized with regard to the average number of hours worked each week as one-quarter, half, three-quarters, or full-time position, as set forth in the following table:

<u>Average Number of Weekly Hours</u>	<u>Category</u>
More than 0 but less than 15	1/4
15 or more but less than 25	1/2
25 or more but less than 35	3/4
35 or more	1 (full-time)

**52.8(2) *How to compute the credit.*** The credit is 6 percent of the taxable wages paid to employees in new jobs or jobs directly related to new jobs for the taxable year in which the taxpayer elects to take the credit.

**EXAMPLE 1.** A taxpayer enters into an agreement to increase employment by 20 new employees which is greater than 10 percent of the taxpayer's base employment level of 100 employees. In year one of the agreement the taxpayer hires 20 new employees but elects not to take the credit in that year. In year two of the agreement only 18 of the new employees hired in year one are still employed and the taxpayer elects to take the credit. The credit would be 6 percent of the taxable wages of the 18 remaining new employees. In year three of the agreement the taxpayer hires two additional new employees under the agreement to replace the two employees which left in year two and elects to take the credit. The credit would be 6 percent of the taxable wages paid to the two replacement employees. In year four of the agreement three of the employees for which a credit had been taken left employment and three additional employees were hired. No credit is available for these employees. A credit can only be taken one time for each new job or job directly related to a new job.

**EXAMPLE 2.** A taxpayer operating two plants in Iowa enters into a chapter 260E agreement to train new employees for a new product line at one of the taxpayer's plants. The base employment level on the date of the agreement at plant A is 300 and at plant B is 100. Under the agreement 20 new employees will be trained for plant B which is greater than a 10 percent increase of the base employment level for plant B. In the year in which the taxpayer elects to take the credit, the employment level at plant A is 290 and at plant B is 120. The credit would be 6 percent of the wages of 10 new employees at plant B as 10 new jobs were created by the industry in the state. A credit for the remaining 10 employees can be taken if the employment level at plant A increases back to 300 during the period of time that the credit can be taken.

**52.8(3) *When the credit can be taken.*** The taxpayer may elect to take the credit in any tax year which either begins or ends during the period beginning with the date of the agreement and ending with the date by which the project is to be completed under the agreement. However, the taxpayer may not take the credit until the base employment level has been exceeded by at least 10 percent.

**EXAMPLE:** A taxpayer enters into an agreement to increase employment from a base employment level of 200 employees to 225 employees. In year one of the agreement the taxpayer hires 20 new employees which is a 10 percent increase over the base employment level but elects not to take the credit. In year two of the agreement 2 of the new employees leave employment. The taxpayer elects to take the credit which would be 6 percent of the taxable wages of the 18 employees currently employed. In year three the taxpayer hires 7 new employees and elects to take the credit. The credit would be 6 percent of the taxable wages of the seven new employees.

A shareholder in an S corporation may claim the pro-rata share of the Iowa new jobs credit on the shareholder's individual tax return. The S corporation shall provide each shareholder with a schedule showing the computation of the corporation's Iowa new jobs credit and the shareholder's pro-rata share. The shareholder's pro-rata share of the Iowa new jobs credit shall be in the same ratio as the shareholder's pro-rata share in the earnings of the S corporation. All shareholders of an S corporation shall elect to take the Iowa new jobs credit the same year.

Any new jobs credit in excess of the corporation's tax liability less the credits authorized in Iowa Code sections 422.33, 422.91, and 422.110 may be carried forward for ten years or until it is used, whichever is the earliest.

This rule is intended to implement Iowa Code section 422.33.

**701—52.9(422) Seed capital income tax credit.** A corporate taxpayer making an investment in an initial offer of securities by a qualified business or a qualified seed capital fund is allowed an income tax credit equal to 10 percent of the amount of the investment. In order to qualify for the credit, investment must be made on or after July 1, 1991, but prior to January 1, 1996.

**52.9(1) Definitions.**

a. For the purposes of this rule, the term “agricultural processing” means the processing of agricultural products. Agricultural products are things which have a situs of their production upon the farm and which are brought into condition for uses of society by labor of those engaged in agricultural pursuits as contradistinguished from manufacturing or other industrial pursuits. In *Re Rodgers*, 134 Neb. 832, 279 N.W. 800, 803, 1988 O.A.G. 51.

b. For the purposes of this rule, the term “assembling products” means collection or gathering together parts and placing them in their proper relation to each other. *Citizen's Nat. Bank v. Bueheit* 71 So. 82.

c. For the purposes of this rule, the term “fishery processing” means the processing of fish. Fish are animals which inhabit the water, breathe by means of gills, swim by the aid of fins, and are oviparous. The term includes crabs, *State v. Savage*, 96 Or. 53, 184 P. 567, 570; escallops, *State v. Dudley*, 182 N.C. 822, 109 S.E. 63, 65; and mussels and other shellfish, *Gratz v. McKee*, C.C.A. MO., 258 F. 335, 336.

d. For the purposes of this rule, the term “forest processing” means the processing of timber. Timber means trees, felled or standing, that are suitable to be used for building. *Feneley v. Kimmell*, 29 N.W.2d 289.

e. For the purposes of this rule, the term “manufacturing” is the creation of a new and different article which has a distinctive name, character, and use, but construction of a building is not considered manufacturing nor is engineering; and manufacturing is nearly always associated with the use of manual or mechanical energy and the word is not ordinarily used to describe products of labor entirely or mainly intellectual or clerical in character. *Hazen Engineering Co. v. City of Pittsburgh*, 151 A.2d 855.

f. For the purposes of this rule, the term “person” includes individual, corporation, business trust, estate, trust, partnership, association, or any other legal entity.

g. For the purposes of this rule, the term “processing” means an operation or a series of operations whereby tangible personal property is subjected to some special treatment by artificial or natural means which changes its form, context, or condition, and results in marketable tangible personal property. These operations are commonly associated with fabricating, compounding, germinating, or manufacturing. Quarrying is not processing, but crushing and screening of limestone after quarrying is processing. *Linwood Stone Products Co. v. State Department of Revenue*, 175 N.W.2d 393 (Iowa 1970).

“Processing” begins when the “form, context, or condition” of tangible personal property is changed with the intent of eventually transforming the property into a salable finished product. The severance of raw material from real estate is not processing, even if this severance results in a change in the form, context, or condition of the real estate. *Linwood Stone Products Co. v. State Department of Revenue*, 175 N.W.2d 393 (Iowa 1970). Furthermore, transportation of raw material after it is severed from real estate, but prior to the time the initial change in the form, context, or condition of the raw material occurs, is not processing. *Southern Sioux County Rural Water System, Inc. v. Iowa Department of Revenue*, 383 N.W.2d 585 (Iowa 1986).

“Processing” ends when the property being processed is in the form in which it is ultimately intended to be sold at retail, *Hy-Vee Food Stores v. Iowa Department of Revenue*, 379 N.W.2d 37 (Iowa 1985). The storage or transport of property after that property is transformed into a finished product is not a part of processing.

*h.* For the purposes of this rule, the term “research and development” means not only fundamental research but also applied research such as testing and experimental construction and production.

*i.* For the purposes of this rule, the term “unaffiliated and nonrelated person, partnership, or corporation” means that the taxpayer does not have one or more of the following relationships with the entity in which the investment is made:

(1) Members of a family which include only wife or husband; brother or sister (including half-brother and half-sister); father, mother, grandparent, or any other ancestor; and children, grandchildren, or any other descendants.

(2) An individual and a corporation more than 50 percent in value of the outstanding stock of which is owned, directly or indirectly, by or for the individual.

(3) Two corporations which are members of the same controlled group of corporations as defined in Section 267(f) of the Internal Revenue Code.

(4) A grantor and a fiduciary of any trust.

(5) A fiduciary of a trust and the fiduciary of another trust if the same person is the grantor of both trusts.

(6) A fiduciary of a trust and a beneficiary of the trust.

(7) A fiduciary of a trust and a beneficiary of another trust if the same person is the grantor of both trusts.

(8) A fiduciary of a trust and a corporation more than 50 percent in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust.

(9) A corporation and a partnership if the same persons own more than 50 percent in value of the outstanding stock of the corporation and more than 50 percent of the capital interest or the profits interest in the partnership.

(10) An S corporation and another S corporation if the same persons own more than 50 percent in value of the outstanding stock of each corporation.

(11) An S corporation and a C corporation if the same persons own more than 50 percent in value of the outstanding stock of each corporation.

*j.* For the purposes of this rule, the constructive ownership of stock will be determined as follows:

(1) Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust will be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries;

(2) An individual will be considered as owning the stock owned, directly or indirectly, by or for the individual's family;

(3) An individual owning, otherwise than by application of (2) above, any stock in a corporation will be considered as owning the stock owned, directly or indirectly, by or for the individual's partner;

(4) The family of an individual includes the individual's brothers and sisters (including half-brothers and half-sisters), spouse, ancestors, lineal descendants, and persons related to each other by blood, marriage or adoption; and

(5) Stock constructively owned by a person by reason of the application of (1) above will, for the purpose of applying (1), (2), or (3) above be treated as actually owned by the person, but stock constructively owned by an individual by reason of the application of (2) or (3) above will not be treated as owned by the individual for the purpose of again applying either of (2) or (3) above in order to make another the constructive owner of the stock.

k. For the purposes of this rule, to determine the constructive ownership of a capital interest or profits interest of a partnership the principles of paragraph “j” above will apply, except:

- (1) Subparagraph (3) of paragraph “j” above will not apply; and
- (2) Interests owned (directly or indirectly) by or for a C corporation will be considered as owned by or for any shareholder only if the shareholder owns (directly or indirectly) 5 percent or more in value of the stock of the corporation.

**52.9(2) *Seed capital fund.***

a. In order to qualify, investors in the fund for the seed capital credit must meet all of the following conditions:

- (1) The investments must be in shares or other equity interests, which are purchased for money consideration and carry voting rights, and
- (2) The issue of shares or other equity interests must be registered under an expedited registration by a filing system as provided in Iowa Code section 502.207A.

b. Its capital base must be used to make investments exclusively in the following types of businesses:

- (1) Interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products,
- (2) Agricultural, fishery, or forestry processing, or
- (3) Research and development of products and processes associated with any of the activities enumerated in (1) and (2).

c. Its capital base must be used to make qualified investments according to the following schedule:

- (1) Invest at least 30 percent of its capital base, raised through investments for which tax credits were taken, within three years of the fiscal year in which tax credits were claimed.
- (2) Invest at least 50 percent of its capital base, raised through investments for which tax credits were taken, within four years of the fiscal year in which the tax credits were claimed.
- (3) Invest at least 70 percent of its capital base, raised through investments for which tax credits were claimed, within five years of the fiscal year in which tax credits were claimed.
- (4) More than 20 percent of the total funds raised for which tax credits were claimed must not be invested in any one qualified business.

**52.9(3) *Qualified business.*** In order to be a qualified business for purposes of qualifying investments in the business for the seed capital credit, all of the following conditions must be met:

a. The business must be engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products; agricultural, fishery, or forest processing; research and development of products and processes associated with the above activities;

b. The shares offered by the business for purposes of the seed capital credit must be purchased by the taxpayer investor for money consideration and the shares must carry full voting rights;

c. The shares must be offered in an offering registered under an expedited registration by filing system as provided in Iowa Code section 502.207A.



**52.9(4) *Tax treatment of disposal of investment within two years.*** If during the tax year the investment or a portion of the investment in the seed capital fund or the qualified business is disposed of prior to having been owned by the taxpayer for two years, the tax is increased by the amount of the credit taken on the investment or portion of the investment. For example, a corporation made a \$10,000 investment for 100 shares in a qualified seed capital fund in December 1991 and claimed a \$1,000 seed capital income tax credit on the 1991 return of the corporation. In August 1992, the taxpayer sold 50 of the shares for \$4,000. On the taxpayer's 1992 return, the taxpayer must increase the tax liability by \$500 to account for the credit that is recaptured because of the taxpayer's failure to hold the seed capital shares for the two-year holding period.

If a taxpayer makes an investment in a seed capital fund or a qualified business in a tax year and disposes of the investment during the tax year, no tax credit will be allowed and recapture of the credit will not be necessary.

**52.9(5) *Carryover of the seed capital credit.*** If the seed capital credit for which the taxpayer qualifies is greater than the state income tax liability of the taxpayer for the tax year in which the investment was made, the portion of this credit which exceeds the liability may be carried over to the subsequent tax year. If the remaining seed capital is not used in the subsequent tax year, the credit may be carried over to the income tax returns for the following four tax years or until the credit is exhausted. In a situation where a taxpayer's seed capital credit is greater than the taxpayer's liability for the year the credit arises and the next five years, the unused portion of the credit expires.

**52.9(6) *Investments eligible for the seed capital credit.*** If a taxpayer makes an investment in securities offered by a seed capital fund or a qualified business, the taxpayer will be eligible for the seed capital income tax credit only if the investment is in an unaffiliated and unrelated person, partnership, or corporation.

**52.9(7) *Statement of qualified investment to be included in the income tax return.*** A taxpayer who wants to claim a seed capital income tax credit for an investment in a qualified seed capital fund or qualified business must include a copy of a signed statement from a corporate officer or designated agent of the seed capital fund or qualified business with the corporation income tax return to attest to the corporate investment in the fund or qualified business. The signed statement must provide a statement to the effect that the person who signed the statement is subject to the penalty of perjury if the statement on the form is not accurate.

**52.9(8) *Seed capital funds or qualified businesses may be subject to audit.*** Seed capital funds or qualified businesses which qualify investors for the seed capital income tax credit will be subject to audit by the department of revenue and finance to ascertain if all qualifications and conditions for the credit have been met.

**52.9(9) *Filing annual reports with the department.*** The issuer of shares qualifying for the seed capital fund income tax credit must file a copy of its annual report with the department for the first year in which the shares are offered as well as annual reports for the following two years. These reports are to be sent to the address shown below:

Iowa Department of Revenue and Finance  
Audit and Compliance Division  
Hoover State Office Building  
P.O. Box 10456  
Des Moines, Iowa 50306

This rule is intended to implement Iowa Code section 422.33.

**701—52.10(15) New jobs and income program tax credits.** For tax years ending after May 1, 1994, for programs approved after May 1, 1994, an investment tax credit under Iowa Code section 15.333 and an additional research activities credit under Iowa Code section 15.335 are available to an eligible business.

**52.10(1) Definitions:**

- a. “*Eligible business*” means a business meeting the conditions of Iowa Code section 15.329.
- b. “*Improvements to real property*” includes the cost of utility lines, drilling wells, construction of sewage lagoons, parking lots and permanent structures. The term does not include temporary structures.
- c. “*Machinery and equipment*” means machinery used in manufacturing establishments and computers except point-of-sales equipment as defined in Iowa Code section 427A.1. The term does not include computer software.
- d. “*New investment directly related to new jobs created by the location or expansion of an eligible business under the program*” means the cost of machinery and equipment purchased for use in the operation of the eligible business which has been depreciated in accordance with generally accepted accounting principles and the cost of improvements to real property.

For the cost of improvements to real property to be eligible for an investment tax credit, the improvements to real property must have received an exemption from property taxes under Iowa Code section 15.332. Replacement machinery and equipment and additional improvements to real property placed in service during the period of property tax exemption by an eligible business qualify for an investment tax credit.

**52.10(2) Investment tax credit.** An investment tax credit of up to 10 percent of the new investment which is directly related to new jobs created by the location or expansion of an eligible business is available. The credit is available for machinery and equipment or improvements to real property placed in service after May 1, 1994. The credit is to be taken in the year the qualifying asset is placed in service. For business applications received on or after July 1, 1999, for purposes of the investment tax credit claimed under Iowa Code section 15.333, the cost of land and any buildings and structures located on the land will be considered to be a new investment which is directly related to new jobs for purposes of determining the amount of new investment upon which an investment tax credit may be taken. If the eligible business, within five years of purchase, sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which tax credit was claimed under this subrule, the income tax liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

- a. One hundred percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within one full year after being placed in service.
- b. Eighty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within two full years after being placed in service.
- c. Sixty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within three full years after being placed in service.
- d. Forty percent of the tax credit claimed if the property ceases to be eligible for the tax credit within four full years after being placed in service.
- e. Twenty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within five full years after being placed in service.

Any credit in excess of the tax liability for the tax year may be carried forward seven years or until used, whichever is the earlier.

If the business is a partnership, S corporation, limited liability company, or an estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

**52.10(3) *Research activities credit.*** An additional research activities credit of 6½ percent of the state's apportioned share of "qualifying expenditures" is available to an eligible business. The credit is available for qualifying expenditures incurred after May 1, 1994. The additional research activities credit is in addition to the credit set forth in Iowa Code section 422.33(5).

See rule 701—52.7(422) for the computation of the research activities credit.

Any credit in excess of the tax liability for the tax year may be carried forward seven years or until used, whichever is the earlier. This is in contrast to the research activities credit in Iowa Code section 422.33(5) where any credit in excess of the tax liability for the tax year may be carried forward until used or refunded. For tax years ending on or after July 1, 1996, the additional research activities credit may at the option of the taxpayer be refunded.

If the business is a partnership, S corporation, limited liability company, or an estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

This rule is intended to implement Iowa Code section 15.333 as amended by 1999 Iowa Acts, chapter 172, and section 15.335.

### **701—52.11(422) Refunds and overpayments.**

**52.11(1) to 52.11(6)** Reserved.

**52.11(7) *Computation of interest on refunds resulting from net operating losses or net capital losses for tax years or periods beginning on or after January 1, 1974.*** If the amount of tax for any year is reduced as a result of a net operating loss or net capital loss carryback from another year, interest shall accrue on the refund resulting from the loss carryback beginning at the close of the taxable year in which the net operating loss or net capital loss occurred or 60 days after payment of the tax, whichever is later. If the net operating loss or net capital loss carryback to a prior year eliminates or reduces an outstanding assessment or underpayment of tax for the prior year, the full amount of the outstanding assessment or underpayment shall bear interest at the statutory rate from the original due date of the tax for the prior year to the last day of the taxable year in which the net operating loss or net capital loss occurred.

**52.11(8) *Computation of interest on refunds resulting from net operating losses or net capital losses for tax years or periods beginning on or after January 1, 1974, and ending on or after July 1, 1980.*** If the amount of tax for any year is reduced as a result of a net operating loss or net capital loss carryback from another year, interest shall accrue on the refund resulting from the loss carryback beginning at the close of the taxable year in which the net operating loss or net capital loss occurred or 30 days after payment of the tax, whichever is later. If the net operating loss or net capital loss carryback to a prior year eliminates or reduces an outstanding assessment or underpayment of tax for the prior year, the full amount of the outstanding assessment or underpayment shall bear interest at the statutory rate from the original due date of the tax for the prior year to the last day of the taxable year in which the net operating loss or net capital loss occurred.

**52.11(9) *Computation of interest on refunds resulting from net operating losses or net capital losses for tax years ending on or after April 30, 1981.*** If the amount of tax is reduced as a result of a net operating loss or a net capital loss carryback, interest shall accrue on the refund resulting from the loss carryback beginning at the close of the taxable year in which the net operating loss or net capital loss occurred or the first day of the second calendar month following the actual payment date, whichever is the later.

**52.11(10) *For refund claims received by the department after June 11, 1984.*** If the amount of tax is reduced as a result of a net operating loss or net capital loss, interest shall accrue on the refund resulting from the loss carryback beginning on the date a claim for refund or amended return carrying back the net operating loss or net capital loss is filed with the department or the first day of the second calendar month following the actual payment date, whichever is later.

**52.11(11)** *Overpayment—interest accruing before July 1, 1980.* If the amount of tax determined to be due by the department is less than the amount paid, and the date of payment occurred prior to April 30, 1980, interest shall accrue from 60 days after the date of payment, at the statutory rate, to the date refunded.

**52.11(12)** *Interest commencing on or after January 1, 1982.* See rule 701—10.2(421) regarding the rate of interest charged by the department on delinquent taxes and the rate paid by the department on refunds commencing on or after January 1, 1982.

**52.11(13)** *Overpayment—interest accruing on or after July 1, 1980, and before April 30, 1981.* If the amount of tax determined to be due by the department is less than the amount paid, and the date of payment occurred on or after April 30, 1980, and before April 30, 1981, interest shall accrue from 30 days after the date of payment or due date of the return, whichever is the later, at the statutory rate, to the date refunded. Date of payment means the date the return is filed.

**52.11(14)** *Overpayment—interest accruing on overpayments resulting from returns due on or after April 30, 1981.* If the amount of tax determined to be due by the department is less than the amount paid, the excess to be refunded will accrue interest from the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the later.

This rule is intended to implement Iowa Code section 422.25.

**701—52.12(422) Deduction of credits.** The credits against computed tax set forth in Iowa Code section 422.33 shall be deducted in the following sequence.

1. Seed capital credit.
2. New jobs credit.
3. Investment tax credit.
4. Research activities credit under Iowa Code section 15.335.
5. Alternative minimum tax credit.
6. Research activities credit.
7. Motor fuel credit.
8. Estimated tax and payments with extensions.

This rule is intended to implement Iowa Code sections 15.333, 15.335, 422.33, 422.91 and 422.110.

**701—52.13(422) Livestock production credits.** For rules relating to the livestock production income tax credit refunds see rule 701—43.8(422).

This rule is intended to implement 1996 Iowa Acts, chapter 1197, sections 19, 20, and 21.

**701—52.14(422) Enterprise zone tax credits.** An eligible business in an enterprise zone may take the following tax credits:

1. New jobs credit from withholding as provided in Iowa Code section 15.331 (see rule 701—52.8(422)).
2. Investment tax credit as provided in Iowa Code section 15.333 (see rule 701—52.10(15)).
3. Research activities credit as provided in Iowa Code section 15.335 (see rule 701—52.10(15)).

This rule is intended to implement Iowa code section 15E.186 created by 1997 Iowa Acts, House File 724.

**701—52.15(15E) Eligible housing business tax credit.** A corporation which qualifies as an eligible housing business may receive a tax credit of up to 10 percent of the new investment which is directly related to the building or rehabilitating of homes in an enterprise zone. The tax credit may be taken on the tax return for the tax year in which the home is ready for occupancy.

An eligible housing business is one which meets the criteria in 1998 Iowa Acts, chapter 1179.

New investment which is directly related to the building or rehabilitating of homes includes but is not limited to the following costs: land, surveying, architectural services, building permits, inspections, interest on a construction loan, building materials, roofing, plumbing materials, electrical materials, amounts paid to subcontractors for labor and materials provided, concrete, labor, landscaping, appliances normally provided with a new home, heating and cooling equipment, millwork, drywall and drywall materials, nails, bolts, screws, and floor coverings.

New investment does not include the machinery, equipment, hand or power tools necessary to build or rehabilitate homes.

A taxpayer may claim on the taxpayer's corporation income tax return the pro-rata share of the Iowa eligible housing business tax credit from a partnership, limited liability company, estate, or trust. The portion of the credit claimed by the taxpayer shall be in the same ratio as the taxpayer's pro-rata share of the earnings of the partnership, limited liability company, or estate or trust.

Any Iowa eligible housing business tax credit in excess of the corporation's tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

If the eligible housing business fails to maintain the requirements of 1998 Iowa Acts, chapter 1179, to be an eligible housing business, the taxpayer may be required to repay all or a part of the tax incentives the business received. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the income tax credit may have expired, the department may proceed to collect the tax incentives forfeited by failure to maintain the requirements of 1998 Iowa Acts, chapter 1179. This is because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability.

This rule is intended to implement 1998 Iowa Acts, chapter 1179.

**701—52.16(422) Franchise tax credit.** For tax years beginning on or after January 1, 1998, a shareholder in a financial institution as defined in Section 581 of the Internal Revenue Code which has elected to have its income taxed directly to the shareholders may take a tax credit equal to the shareholder's pro-rata share of the Iowa franchise tax paid by the financial institution.

The credit must be computed by recomputing the amount of tax computed under Iowa Code section 422.33 by reducing the shareholder's taxable income by the shareholder's pro-rata share of the items of income and expenses of the financial institution and deducting from the recomputed tax the credits allowed by Iowa Code section 422.33. The recomputed tax must be subtracted from the amount of tax computed under Iowa Code section 422.33 reduced by the credits allowed in Iowa Code section 422.33.

The resulting amount, not to exceed the shareholder's pro-rata share of the franchise tax paid by the financial institution, is the amount of tax credit allowed the shareholder.

This rule is intended to implement Iowa Code section 422.33, as amended by 1999 Iowa Acts, chapter 95.

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